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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,116	08/06/2003	John G. Waclawsky	1004-063.001	2068
47654 7590 10/15/2007 BAINWOOD HUANG & ASSOCIATES LLC 2 CONNECTOR ROAD WESTBOROUGH, MA 01581			EXAMINER NGO, NGUYEN HOANG	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 10/15/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/635,116

Applicant(s)

WACLAWSKY ET AL.

Examiner

Nguyen Ngo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 34-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-37, 46-49 and 56-59 is/are rejected.
- 7) ☒ Claim(s) 38-45, 50-55, 60-66, 67-69 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

This communication is in response to the amendment of 8/09/2007. All changes made to the Claims have been entered. Accordingly, Claims 34-69 are currently pending in the application.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 34-37, 46-49, and 56-59 are rejected under 35 U.S.C. 102(e) as being anticipated by Waclawsky (US 6449255), hereinafter referred to as Waclawsky.

**Regarding claim 34, 46, 56,** Waclawsky discloses a method for managing a flow of packets (manages packets in a data communication device, abstract), comprising:

transferring packets of a particular packet flow based on an initial policy scheme (the data communications device transmit an initial set of packets (packets with an initial policy scheme) which are monitored, col3 lines 10-15). Input scheduler 116 of figure 7 correlating to a transfer circuit;

planning a scheme change to change the initial policy scheme to a new policy scheme based on transfer conditions within the data communications device existing while transferring the packets of the particular flow based on the initial policy scheme (the traffic monitor provides a real time feedback signal indicating transmission information (transfer conditions) regarding the initial set of packets (initial policy scheme), col3 lines 15-22). Central traffic analyzer 122 of figure 7 correlating to controller; and

providing a change signal to a source of the particular packet flow, the change signal indicating that the data communications device has planned the scheme change (the data communication device manipulates a new set of packets within its memory based on the real time feedback signal (change signal), col3 lines 15-22). Traffic monitor 26 of figure 7 correlating to feedback circuit.

**Regarding claim 35, 47, 57** Waclawsky discloses the method of claim 34 wherein the initial policy scheme is an initial packet dropping scheme for dropping packets from the particular packet flow, and wherein the new policy scheme is a new packet dropping scheme for dropping packets from the particular packet flow in a manner that is different than that of the initial packet dropping scheme (unable to achieve TOS goals and discards packets in such situations in order to achieve such goals, col6 lines 54-65).

**Regarding claim 36, 48, 58**, Waclawsky discloses the method of claim 34 wherein the initial policy scheme is an initial packet scheduling scheme for scheduling packets of the

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particular packet flow for transmission, and wherein the new policy scheme is a new packet scheduling scheme for scheduling packets of the particular packet flow for transmission in a manner that is different than that of the initial packet scheduling scheme (input scheduler controls the size of each queue in an on the fly manner based on a real time feedback signal, col6 lines 20-30).

**Regarding claim 37, 49, 59** Wacławsky discloses the method of claim 34 wherein the initial policy scheme is an initial packet classification scheme for classifying packets of the particular packet flow, and wherein the new policy scheme is a new packet classification scheme for classifying packets of the particular packet flow in a manner that is different than that of the initial packet classification scheme (reorder manager controls the prioritization of the queues within the queue structure, col6 lines 40-50).

#### ***Allowable Subject Matter***

3. Claims 38-45, 50-55, and 60-66, 67-69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

4. Applicant's arguments filed 8/9/2007 have been fully considered but they are not persuasive.

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5. Applicant submits that Wacławsky fails to teach providing a change signal to a source of the particular flow, the change signal indicating that the data communication device has planned the scheme change. Examiner insists that it is not unreasonable to correlate the feedback signal disclosed by Wacławsky to a change signal as the feedback signal provides information about observed traffic and is used to alter respective operations and enables the data communications device to make on the fly adjustments to dynamically changing traffic patterns (abstract), as agreed upon by Applicant (see remarks page 14). Wacławsky further discloses manipulating (correlating to scheme change) a new set of packets within the memory of the data communications device based on the real time feed back signal (abstract), thus the feedback signal is used to "plan" a scheme change in the device. It should be noted that a typical definition for plan is the information a unit uses to decide what to do next, thus the feedback signal is used to decide how to manipulate the packet flow in a communication device.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen Ngo whose telephone number is (571) 272-8398. The examiner can normally be reached on Monday-Friday 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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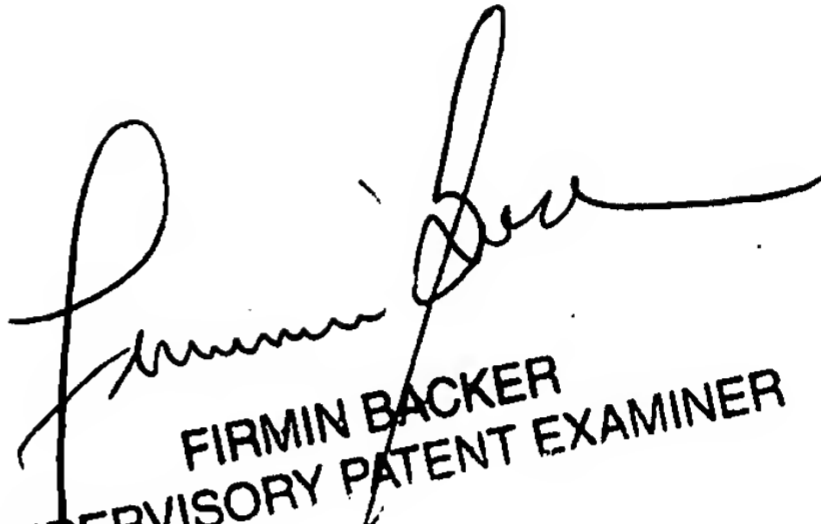
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